

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GERALD WHITE,

Plaintiff,

17-cv-4254 (PKC) (DF)

-against-

ORDER ADOPTING REPORT
AND RECOMMENDATION

NANCY A. BERRYHILL, ACTING
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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CASTEL, U.S.D.J.

On June 6, 2017, Gerald White, proceeding pro se, filed this action seeking review of the final decision of the Commissioner of Social Security denying White Supplemental Security Income benefits. (Doc 2.) The Commissioner moved for judgment on the pleadings pursuant to Rule 12(c), Fed. R. Civ. P. (Doc 15.) White has not submitted any opposition to that motion.

This Court referred the motion to Magistrate Judge Debra C. Freeman to hear and report. (Doc 6.) On March 6, 2019, Magistrate Judge Freeman issued a Report and Recommendation (the “R&R”) recommending that the Commissioner’s motion for judgment on the pleadings be denied and that the case be remanded for further administrative proceedings. (Doc 20.)

In reviewing an R&R, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). The R&R advised the parties that they had 14 days from the service of the R&R to file any objections with the undersigned, citing Rule 72(b), Fed. R. Civ. P., and 28 U.S.C. § 636(b)(1), and warned that failure to file such objections would result in a waiver of any right to object. (R&R at

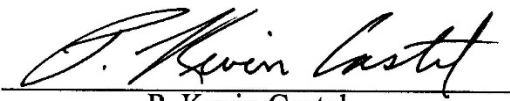
48–49.) The allotted 14 days have passed, and neither party has filed any objections to the R&R. The parties received clear notice of the consequences of the failure to object and waived the right to object to the R&R or obtain further judicial review of the magistrate’s decision. See Frank v. Johnson, 968 F.2d 298, 300 (2d Cir. 1992); Mario v. P & C Food Mkts., Inc., 313 F.3d 758, 766 (2d Cir. 2002); see also Caidor v. Onondaga Cty., 517 F.3d 601, 604 (2d Cir. 2008).

When clear notice of the consequences of a failure to object has been provided, the Court may adopt an unobjected-to report and recommendation without *de novo* review. See Thomas v. Arn, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”). In such circumstances, “a district court need only satisfy itself that there is no clear error on the face of the record.” Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). The Court has reviewed Magistrate Judge Freeman’s thorough and well-reasoned R&R for clear error and found none. Therefore, the Court adopts the Report and Recommendation in its entirety.

CONCLUSION

The Commissioner’s motion for judgment on the pleadings is DENIED. (Doc 15). This case is REMANDED pursuant to 42 U.S.C. § 405(g) for further proceedings consistent with the R&R.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
March 27, 2019